

REMARKS

Claims 1-89 are pending in this application, with claims 1, 36 and 63 being independent. Claims 1, 2, 4, 5, 7, 16, 36, 37, 39, 40, 42, 48, 52, 63, 64, 66, 67, 69, 75, and 79 have been amended.

Drawing Objections

An objection was made to FIGS. 7A through 10 for embedding reference numbers within tables shown by the FIGS. Applicant has amended FIGS. 7A through 10 by moving all the reference numbers outside of those tables. Amended FIGS. 7A through 10 are included with this response and Applicant respectfully requests withdrawal of the objection to those drawings.

Indefiniteness

Claim 83 stands rejected under 35 USC 112, second paragraph, as being indefinite. Specifically, the Examiner asserts that the phrase "the selecting code segment" lacks antecedent basis. Nevertheless, the required antecedent basis is provided by independent claim 63 which recites "a selecting code segment," and from which claim 83 indirectly depends. Therefore, Applicant respectfully requests withdrawal of the rejection to claim 83.

35 U.S.C. § 102(e) Rejection

Claims 1, 3-21, 25-36, 38-51, 55-63, 65-78 and 82-89 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Owensby (U.S. Patent Application Publication, Pub. No. US 2002/0077130). This rejection is obviated by the amendments to independent claims 1, 36 and 63.

Owensby discloses, in pertinent part, a system and method of selecting and inserting messages automatically into a communication of a subscriber to subsidize the communication. Owensby does not describe or suggest transferring a call of a caller to a human operator, and assisting the human operator to present an automatically selected first sales pitch to the caller, as required by amended independent claims 1, 36 and 63. Applicant requests, therefore,

reconsideration and withdrawal of the § 102(e) rejections of those claims and of the claims that depend from them.

Specifically, independent claim 1 recites a system for selecting a first sales pitch appropriate for a particular telephone caller of a telephone call center. The process includes receiving a call from a caller to the telephone call center, accessing information about the caller, and automatically selecting the first sales pitch based upon the information accessed about the caller. The call is transferred to a human operator, and the human operator is assisted in presenting an automatically selected sales pitch to the caller. Amended dependent claim 2 recites, in addition, that assisting the human operator to present the first sales pitch includes displaying at least a portion of the selected first sales pitch on a display of the human operator.

In the method of Owensby, a communication is initiated by a caller and a targeted message is selected automatically based on information related to the caller. See Owensby, Abstract; p. 6, ¶ 0043. The targeted message is provided to the caller using a Voice Response Unit to insert automatically the targeted message into the communication, before the call is routed to a human representative. See Owensby, pp. 5-6, ¶ 0024; and p. 6, ¶ 0043. Because Owensby does not provide the call to a human representative until *after* the targeted message is presented automatically to the caller, Owensby does not assist the human representative in presenting an automatically selected first sales pitch to the caller.

Moreover, Owensby does not describe or suggest, and, in fact, teaches away from, transferring a call of a caller to a human operator, and assisting the human operator to present an automatically selected first sales pitch to the caller, as recited in amended claim 1.

Claims 3-21 and 25-35 depend from claim 1 and are allowable for at least the reasons given for claim 1

Independent claims 36 and 63 are directed to a system and to a computer program, respectively, for assisting to present a first sales pitch appropriate for a particular telephone caller of a telephone call center. Claims 36 and 63 each recite either means or code segments that perform the functions, similarly to the process of claim 1, of "transferring the call to a human operator after automatically selecting the first sales pitch" and of "assisting the human operator to present the first sales pitch to the caller." Owensby does not describe or suggest either of

these claim limitations, as discussed previously with respect to claim 1. For at least these reasons, claims 36 and 63 are allowable over Owensby.

Claims 38-51, 55-62, 65-78 and 82-89 each depend from either claim 36 or claim 63 and are allowable for at least the reasons given for claims 36 and 63.

35 U.S.C. § 103(a) Owensby/Kamel et al. Rejection

Claims 1-2, 4-5, 22-24, 35-37, 39-40, 52-54, 62-64, 66-67, 79-81 and 89 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Owensby alone or in view of Kamel et al. (U.S. Patent No. 5,937,037). This rejection is obviated by the amendments to independent claims 1, 36 and 63.

As described above, Owensby teaches a system and method of selecting and inserting messages automatically into a communication of a subscriber to subsidize the communication. Owensby, however, does not disclose or suggest transferring a call to a human operator and assisting the human operator to present an automatically selected first sales pitch to the caller as recited in amended independent claims 1, 36 and 63. Furthermore, Kamel et al. does not remedy Owensby's deficiency.

Like Owensby, Kamel et al. discloses methods and systems for delivering promotional messages to subscribed callers. See Kamel et al., Abstract. More particularly, Kamel et al. teaches that the promotional messages are selected automatically and are stored in message queues from whence they are delivered automatically to the caller during a call of the caller. See, e.g., Kamel et al., Col. 9, l. 16 to Col. 10, l. 45. However, as with Owensby, Kamel et al. does not disclose transferring a call to a human operator and assisting the human operator to present an automatically selected first sales pitch to the caller as recited in amended independent claims 1, 36 and 63.

Due to their failure to teach or suggest the above-noted features of claims 1, 36 and 63, either alone or in combination, it is respectfully submitted that the proposed combination of Owensby and Kamel et al. fails to establish a *prima facie* case of obviousness with regards to claims 1, 36 and 63. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Applicant : James Paul Haughwout
Serial No. : 09/819,899
Filed : March 29, 2001
Page : 25 of 25

Attorney's Docket No.: 06975-144001 / Member
Services 04

Claims 2, 4-5, 22-24, 35, 37, 39-40, 52-54, 62, 64, 66-67, 79-81 and 89 depend from claims 1, 36 and 63 and are allowable for at least the reasons given for claims 1, 36 and 63.

For the reasons discussed above, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 1-89.